

(W) 555

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

FILED

Name williams Antonio L.
 (Last) (First) (Initial)

DEC 20 2007 M

Prisoner Number T05660

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Institutional Address CALIFORNIA CORRECTIONAL INSTITUTION
P.O. BOX 1906 4-A-204 TEHACHAPI CA 93581

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CV 07

6419 CW

ANTONIO williams

(Enter the full name of the plaintiff in this action)

Case No. _____

(To be provided by the clerk of court)

(PR)

vs.

N. Albonico

A. Pfadt

R. Peery

C. Lockard

(Enter the full name of the defendant(s) in this action)

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

- DEMAND FOR JURY TRIAL
 NO JURY TRIAL DEMAND
 (check one only)

All questions on this complaint form must be answered in order for your action to proceed.

I. Exhaustion of Administrative Remedies

Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement CALIF CORRECTIONAL INST.

B. Is there a grievance procedure in this institution?

YES () NO ()

C. Did you present the facts in your complaint for review through the grievance procedure? YES() NO ()

*This Action involves A 832.5 F.B.I
INQUIRY COMPLAINT ENC*

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal F.B.I COMPLAINT "ACTION"

2. First formal level F.B.I COMPLAINT

3. Second formal level F.B.I COMPLAINT

4. Third formal level F.B.I COMPLAINT

E. Is the last level to which you appealed the highest level of appeal available to you? YES (). NO () *NIA*

F. If you did not present your claim for review through the grievance procedure, explain why. Action PREVENTED

by WAY OF 832.5 INQUIRY COMPLAINT

II. Parties

Write your name and your present address. Do the same for additional plaintiffs, if any.

A. ANTONIO WILLIAMS T-05660

CALIFORNIA CORRECTIONAL INSTITUTION

P.O BOX 1906 4-A-204 TEHACHAPI, CALIF 93581

Write the full name of each defendant, his or her official position, and his or her place of employment. ~~HIGH DESERT STATE PRISON P.O BOX 3030 SUSANVILLE, CA 96127 Address for all~~

B. N. ALBONICO CORRECTIONAL OFFICER, A. PEAK CORRECTIONAL OFFICER, R. PEERY SERGEANT, C. LOCKARD SERGEANT, GUTHRIE SERGEANT, C. MOORE CORRECTIONAL OFFICER, T. JACKSON CORRECTIONAL OFFICER

III. Statement of Claim

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

CLAIM '1': ON 5-14-02 PLAINTIFF WAS ASSAULTED BY DEFENDANTS WHILE IN HANDCUFFS IN BAD FAITH MALICIOUSLY, sadistically FOR very PURPOSE OF CAUSING HARM AS DID VIOLATING 8TH AMENDMENT PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT DEFENDANTS CAUSED VARIOUS INJURIES INCLUDING A RT. DISLOCATED SHOULDER gone UNTREATED TO DATE see EXHIBIT 5-14-02 MEDICAL REPORT. CLAIM '2': ON 8-7-02 I SENT A CITI-

12 CLAIMS, CONTINUE
PAGES →
FEDERAL
COURT →

P92

itizen's complaint against defendants
certified mail regarding and copies
of to president George W. Bush, Atty.
Gen. John Ashcroft see Exh 2 complaint,
receipt and in Nov 02 plaintiff received
a Nov 8, 02 letter in reply from
U.S. Dept. of Justice saying it was
conducting a investigation see Exh
3 letter of.

CLAIM 3: ON JULY 19, 06 plaintiff right
shoulder was confirmed dislocated
by UC Davis Dr. J. Tanti and ordered
surgery to repair it see Exh 4
Exam Letter order of, including
a witness letter by Calif prison
Focus witness dislocation of shoulder
see Exh 5 letter of

CLAIM 4: Defendants ordered and
conspired with C.O.C.A DR. DAVID
SMITH on 11-28-06 to interfere
with DR. TANTI surgical orders to
repair plaintiff dislocated shoul-
der in attempt to protect them
and he refused

CONTINUATION
PG 2

During surgery to repair my dislocated shoulder and fraudulent
I stated in a 11-28-06 report my shoulder wasn't dislocated see Exh 6
surgery report.

CLAIM 5: Defendants had, has politic-
ally interfered with Plaintiff right
to be medically treated by C.D.C.
on Apr 6, 07 C.D.C.R Dr. David Smith
lied to me he would see me after
MRI including Dr. Marshall S. Lewis
on May 25, 07. see Exhibits 7 & Letters

CLAIM 6: On June 29, 07 Plaintiff had
in injured and results revealed affection
overriding RT shoulder joint, bone
Dr. Lewis failed to treat me leaving
me further injured see Exh 9 MRI
result of.

CLAIM 7: On July Plaintiff had
a bone scan and results revealed
delayed blood flow, bone turned
over, affection, etc

CONTINUATION
893

ABNORMALITY EXAM. HEALING FRACTURE RADIOPHOTOGRAPHIC PLATE WERE RECOMMENDED.
 PLAINTIFF HAD THE RADIOPHOTOGRAPHS
 WERE INSERTED IN RT. ARM BUT PIN NEEDED
 IN BEHALF OF DEFENDANTS ARE WITH-
BONE SCAN RESULTS AND BOTH DR.
 SMITH, DR. LEWIS STILL REFUSED TO
 FOLLOW UP TREAT INJURY.

CLAIM 8: PLAINTIFF IS ENTITLED
 TO INJUNCTIVE RELIEF, MONETARY
 DAMAGES FOR PAIN, SUFFERING

CLAIM 9: PLAINTIFF COMPLAINT IS
 ALLEGEDLY IN A OPEN U.S. D.O.J
 INVESTIGATION COURT ORDER see EXH 11 Feb 22, 05

CLAIM 10: PLAINTIFF STATED THERE
 WAS NO PRISON DISRUPTION OR
 DISCIPLINARY DISRUPTION FOR

FOR OFFICERS TO USE EXCESSIVE
FORCE AGAINST HIM AS HE ONLY
GAVE CIO N. ALBONICO A NOTE TO SEE
A SERGEANT THAT HIS LIFE WAS
IN DANGER OF STAFF MISCONDUCT OF
WHICH AS MAILROOM, PRISON AUTHORITY
WERE HOLDING HIS OUTGOING
LEGAL MAIL AND IN ATTEMPT TO
INTIMIDATE ME INTO SILENCE CIO
ALBONICO, CIO REQUEST UPON ESCORT TO
THE SERGEANT OFFICE AND THERE
OF BOTH USED UNNECESSARY FORCE
AND ALL OTHER DEFENDANTS ENGAGED
IN SO AND DID NOT INTERVENE
CAUSING INJURIES TO INFILTRATE
TO INFILTRATE PAIN.

CLAIM 111 THERE IS ALSO A USE
OF FORCE VIDEO OF ALL THE
TIFF INJURIES DATED 5-14-02

CLAIM 112 PLAINTIFF STATES HE
SERVED U.S. DEPT. OF JUSTICE, ATTY.
GEN. BILL LOCHRYER A AFFIDAVIT

OF A SETTLEMENT AGREEMENT
TO MONETARILY SETTLE COMP-
AINT see Exh 12

PLAINTIFF CLAIMS ARE IDENTICAL
TO HODSON VS MCMILLIAN, 503 U.S. 1, 117
L.Ed. 2d 156, 112 S.Ct. 993 (1992).
See WHITLEY VS ALBERS (1986) 475 U.S. 312
1106 S.Ct. 1078; 89 L.Ed. 2d 252. Also

See ALSO Federal Cases
FOR MEDICAL, INJUNCTIVE,
RELIEF ON CONTINUATION PG 6

"FEDERAL CASES, LAW IN SUPPORT OF"
COMPLAINT, RELIEF:

See ESTELLE VS GAMBLE, 429 U.S. AT 105 ("INTENTIONALLY INTERFERING WITH TREATMENT ONCE PRESCRIBED"); LAWSON VS DALLAS COUNTY, 286 F.3D 257 (5TH CIR. 2002) (FAILURE TO FOLLOW MEDICAL ORDERS FOR CARE OF PARAPLEGIC PRISONER); WALKER VS BENJAMIN, 293 F.3D 1030 (7TH CIR. 2002)

DENIAL OF MEDICAL CARE FOR INJURED SHOULDER WAS UNCONSTITUTIONAL, ALTHOUGH NO PERMANENT INJURY RESULTED
H.C. VS JARRARD, 786 F.2D 1080, 1083, 1086 (11TH CIR. 1986)

PRISONERS ENTITLED TO MONEY DAMAGES AND INJUNCTIVE RELIEF UNDER 998 F. SUPP. 793 (E.D. MICH. 1998)
See ADA AND RA; 2122; KEY VS GRAYSON,

See 28 U.S.C § 2283, 2284 Fed Rule 65
"IN REVIEWING A COMPLAINT UNDER THIS STANDARD, THE COURT MUST ACCEPT AS TRUE THE ALLEGATIONS OF THE COMPLAINT IN QUESTION, HOSPITAL DRG. CO. V. REX HOSPITAL VOLUNTEER, 425 U.S. 738, 740 (1970), CONSTITUTE THE PLEADING IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF IN THE PLAINTIFF FAVOR. TENTH VS MCKEEITHEN, 395 U.S. 411, 427 (1969).

~~RONNIE GRIFFIN~~ A.W.

IV. Relief relief to be granted by
see below

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

COMPLAINT TO BE FILED, REFILED UNDER IMMEDIATE
HARM DANGER, 124 COURT ORDER FOR
INJUNCTIVE RELIEF PURSUANT U.C.C. 2283.2284
TO ENFORCE DR. TANTI'S ORDER TO REPAIR DISLOCATED
SHOULDER, 131 TO BE AWARDED 2 MILLION DOLLARS
IN COMPENSATORY, PUNITIVE DAMAGE & 141 DECALATORY
RELIEF

DATED: 12-9-07

Antonia Williams
(Plaintiff's signature)

VERIFICATION

(optional)

I am the plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

Antonio Luis Williams
(Plaintiff's signature)

JURY TRIAL DEMAND

(optional)

I demand a jury trial for all claims for which a jury trial is allowed.

YES NO (check one only)

Dated: _____

Antonio Luis Williams
(Plaintiff's signature)

DEPARTMENT OF CORRECTIONS

STATE OF CALIFORNIA

MEDICAL REPORT OF INJURY OR UNUSUAL OCCURRENCE

E 33

NAME OF HOSPITAL

HOSP

DATE

5/14/02

THIS SECTION FOR INMATE ONLY	NUMBER	NAME (LAST)	FIRST	OLD HOUSING LOCATION			DATE
	S 08660	Williams		CF-126			5/14/02
THIS SECTION FOR STAFF/ VISITOR ONLY	NAME (LAST)	FIRST	MIDDLE	SEX	AGE	DOB(MO., DA., YR.)	OCCUPATION
				M	38	12/26/63	
	HOME ADDRESS	CITY	STATE	ZIP	HOME PHONE		
TIME OF OCCURRENCE	PLACE OF OCCURRENCE			TIME SEEN	MODE OF ARRIVAL		
1830	C			1900	Amb/esc		

BRIEF RESUME IN PATIENT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

I gave "em" A note telling them I was Afraid, my life was in jeopardy.

NAME OF WITNESSES, SUMMARIES OF THEIR STORIES, INsofar AS AVAILABLE

Staff

NURSE/MTA'S HISTORY OF INJURY/OCCURRENCE

Shattered with Large Abrasion I'm Atox3 Abusing O'cheek (Shoulder
After Side Abrasion inside (2) foot (Bunion area). Also has hitting wound in bunion area.

KNOWN ALLERGIES

NKA

DATE OF LAST TETANUS

VITAL SIGNS

T: / BP: / P: / R: /

TIME MEDICAL OFFICER
NOTIFIEDTIME MEDICAL OFFICER
ARRIVED

COMMENTS OF MEDICAL OFFICER

Defined

DIAGNOSTIC IMPRESSION

n/a

TREATMENT

Ice to Site, Abrasions cleaned & bandaged

DESCRIPTION OF SIGNIFICANT CLINICAL LABORATORY AND/OR ROENTGENOLOGIC FINDINGS

n/a

DISPOSITION

RTC - Adm. cleared.

ESTIMATED OR RECOMMENDED NUMBER OF DAYS IN "DISPOSITION" STATUS

Unknown

PROGNOSIS

Unknown

SIGNATURE OF R.N./M.T.A.

(R.N. or MTA)

SIGNATURE OF MEDICAL OFFICER

MTA

PE 8832-5
THIS IS BEFILED AS CITIZENS COMPLAINT
AGAINST CORRECTIONAL OFFICERS CIO ALBONICO,
CIO PFACT, SERGEANT PEERY, SERGEANT TURNER,
SGT. ROCKARD, CIO SCHAPPS, CIO MOORE FON
ASSAULT AND BATTERING UPON A PRISONER WHILE
IN HANDCUFFS, EXCESSIVE FORCE, ABUSING PRISONER
ON MAY 14, 02 I GAVE CIO ALBONICO A NOTE INFORMING
HIM THAT I NEEDED TO SEE A SGT. THAT I
WAS FEAR OF MY LIFE AS MAINTAIN STAFF CONTINUOUSLY
WITHOLDING, STELLING MY LEGAL OUT GOING
CERTIFIED MAIL EVEN TO THE PRESIDENT George Bush.
INSTEAD OF ALLOWING ME TO SEE A SGT. CIO ALBONICO
HANDCUFFS BOTH HOUSING UNIT OFFICERS PLACED
CELL PORTHOLE AND PLACED US IN A SHOWER AND
SEARCHED OUR CELL, AFTER CELL SEARCH WE WERE
PLACED BACK INSIDE THE CELL, AGAIN BEFORE THE
HANDCUFFS WERE REMOVED I TOLD CIO ALBONICO
PEY'S NOTE GIVEN HIM I NEEDED TO SEE THE SGT.
BACK INTO THE SHOWER, I WAS LED OUT THE CELL
AFTER RECEIVING A COPY OF A COMPLAINT SENT TO
SUSANVILLE POST OFFICE EAGLE STATION ATTACHED 04-11E-1430
OF 20 FELONY, FEDERAL, ANTITRUST MAIL VIOLATIONS
AS SOON AS I WAS LED OUT THE BUILDING
OUT OF PRESENCE OF INMATES
119400000 1894 MH 22 11/12/2002
DO NOT FILE IN THIS ITEM
AUTHORIZES JACKET
TO FILE MATERIAL
DO NOT FILE IN

WAS LOCKDOWN CIO ALBONICO STARTED SHOVING ME
 ABOUT 100-150 FEET BEFORE ENTERING PROGRAM
 OFFICE CIO ALBONICO SNATCHED SAID COMPLAINT
 OUT OF MY HAND, AND THROWN ME TO THE GROUND
 AND CIO PFADT WAS HOLDING ME DOWN ON CONCRETE
 GROUND = STARTED YELLING FOR HELP CIO ALBONICO
 CIO PFADT WAS PUMPCLING ME WITH BLOWS STATING
 FALSELY AS SO QUIT RESISTING, SGT. PEERY, SGT. TURNER,
 SGT. LOCKART, CIO SCHAPPS, CIO MOONE ALL WERE HOLDING
 PROGRAM OFFICE CIO'S SCHAPPS, MOONE WERE HOLDING
 MY LEGS. SGT.'S LOCKART, PEERY, TURNER, CIO ALBONICO
 CIO PFADT WERE PUMPCLING ME WITH BLOWS STATING
 QUIT RESISTING, SGT. PEERY PULLED MY HANDCUFFED
 BEHIND BACK HANDS OVER MY HEAD AS I WAS
 LYING ON GROUND "CIO ALBONICO PLACED HIS FOOT
 ON MY HEAD AND SMAMED RIGHT SIDE OF FACE
 ON CONCRETE PAVEMENT CAUSING INJURY, ALSO INJURY
 TO RIGHT SHOULDER BY ASSAULT THROWN TO PAVEMENT
 SAID PRISON STAFF CONDUCTED A ON VIDEO CAMERA
 INTERVIEW FOR REQUIRING USE OF FORCE OR MY INJURIES
 INTERVIEW OVER MY ON CAMERA REFUSAL HE DO
 SO. I WAS THERE AFTER FALSELY PLACED IN ADMINISTRATIVE
 SEGREGATION AND GIVEN A FALSE P.D.C 115
 DISCIPLINARY WRITE UP FOR RESISTING STAFF.
 THERE WERE 2 INMATE PROGRAM OFFICE CRITICAL

WORKERS WITNESSED THE BEATING AS WAS OUTSIDE
ON CIGGARETTE BREAK. ON MAY 15, 02 = HAD XRAYS
OF Right Shoulder AND WAS NEVER TAKEN back
TO MEDICAL CLINIC FOR Scheduled FOLLOW UP.
I SENT COMPLAINTS TO LOCAL F.B.I 4500 ORANGEGROVE
SACRAMENTO, CALIF ALSO HONORABLE CONGRESSWOMAN
BARBARA LEE WHOM BOTH APPARENTLY CONTACTED
CALIF PRISON UNION ASSOCIATION ACCORDING TO
LT. BECKMAN FACILITY'S INSTITUTIONAL SECURITY
UNIT INVESTIGATION WHOM I'VE NOTIFIED by COMPLAINT
SEE ENCLOSED EXHIBIT 1 LT. BECKMAN FAILED TO
INVESTIGATE AS WAS DESIGNATED OR INTERVIEW
WITNESSES ON TAPE OR USE FOR SEEN PHYSICAL
EVIDENCE OF MY INJURIES, INCLUDING ON VIDEO
TAPE AND XRAY FINDINGS TO REPRIMAND, DISCIPLINE
SAID CONNECTIONAL OFFICERS AS STATED HE WOULD
INSTEAD LT. BECKMAN, H.D.S.P PRISON OFFICERS
IN RESPONSE TO COMPLAINT, INVESTIGATION FALSIFIED
INFO OF UNSUBSTANTIATED SEE EXHIBITS 2,3
THIS IS SECOND ASSAULT ON ME, IN DEC, 00 I WAS
ASSAULTED AND IT WAS FALSIFIED I PLIED TO ADD
FALSIFIED C.D.C 115 FOR THREATENING A OFFICER
ALSO TO FURTHER HARASS STATED I SAID
I WAS F.B.I SEE EXHIBIT 4

H.D.S.P under ACTING WARDEN D.L. RUMMEL'S
POLICY IS TO ASSAULT HANDCUFF PRISONERS
FOR RACIAL DISCIPLINING, KICKS VARIOUS
MULTIPLE INMATES HAVE BEEN BEATEN IN CUFFS
THROTTLED UNCONSCIOUS TIL UNWAKING, DEFACATING
ASSAULTING STAFF AS FAIRLY CHANGED WITH
HAYES CDC NO.K-50096 AS HE IS HOUSED IN FACILITY D-8
ALSO INMATE TIMOTHY EPPS HE IS HOUSED IN FACILITY
D-7 BOTH IN ISOLATION. SOMEONE IS GOING
TO GET ACCIDENTLY MURDERED BY STAFF ABUSING
PRISONERS. PETITIONER REQUEST THE VIDEO, XRAY
CDC 115. FINDINGS, OTHER MATERIAL RELATING TO
ASSAULT AGAINST HIM BE SUBPOENA INVESTIGATED
BY JUSTICE DEPT. "AS IS A 8TH AMENDMENT VIOLATION.
I ALSO BE PROTECTED FROM RETALIATION BY H.D.S.P
STAFF AND HALT, HARASSMENT, ABUSE, THEFT OF
OUTGOING LEGAL CERTIFIED MAIL BY MAIL ROOM STAFF
ILLEGALLY CENSORING IT WHICH ENDANGERED MY LIFE
REQUESTING TO SEE A SGT.

DATED: 8-6-02

Antonio Williams

EACH DEPT. WHICH EMPLOYS PEACE OFFICERS
SHALL ESTABLISH A PROCEDURE TO
INVESTIGATE CITIZEN'S COMPLAINTS AND
SHALL MAKE A WRITTEN DESCRIPTION
OF THE PROCEDURE AVAIL. TO THE -

I SENT CERTIFIED MOTION POSTMARKED JUNE 6, 02
FOR U.S DEPT OF JUSTICE CIVIL RIGHTS CASE NO. 168-11E-012598
ALSO HONORABLES PRESIDENT GEORGE W. BUSH BUT FAIRLY
WITHHELD FROM LEAVING FALSIFIED IT DID IN ATTACHED
STATE DOCUMENT "IN A POSTMARKED JUNE 24, 02 CERTIFIED
LETTER I INFORMED OF SO." ENCLOSED IS A COMPLAINT
AS DATED 8-6-02, ALSO PRESIDENT BUSH IS ADDRESSED
WAS SENT CERTIFIED COPY AS WELL

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE
APPEAL FORM**

CDC 802 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
William A	TO 5660	X	D-3-211

A. Describe Problem: FORWARD INMATE his postal postmarked 6-18-02 RECEIPT FOR CERTIFIED MAIL TO PRESIDENT George Bush OR I WILL RESUBMIT AND CHANGED FACILITY WITH INTERFERING WITH RIGHT TO APPEAL, ADDRESS GRIEVANCES PERTAIN TO LIFE, LIBERTY THERETO PRESENT ON 6-23-02 "OFFICERS AND AIDES TO ALL SENT MAILING TO MAILED

If you need more space, attach one additional sheet.

B. Action Requested: FORWARD INMATE his US POSTAL RECEIPT OR LOG BOOK pg TO PRESIDENT Bush.

Inmate/Parolee Signature: Anton Williams Date Submitted: 6-20-02

C. INFORMAL LEVEL (Date Received: 06/24/02)

Staff Response: mailroom records do not indicate a certified letter being sent by you to President George Bush, however one was sent out via regular first class mail on 6-17-02

Staff Signature: Chasie Date Returned to Inmate: 06/24/02

D. FORMAL LEVEL

You are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

STATE OF CALIFORNIA

INMATE/PAROLEE
APPEAL FORM

CDC 802 (12/87)

Exhibit 1.

DEPARTMENT OF CORRECTIONS

Location: Institution/Parole Region

Log No.

1. HDSP-S

1. 02-01079

Category

7
par8225

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME

WILLIAMS Antonio	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
	T05660	X X	D-8-201

Describe Problem: THAT THIS BE FILED AS A CITIZEN'S COMPLAINT AGAINST CIO ALBONICO FOR ASSAULT/BATTERY, ASSAULTING AN INMATE WHILE IN HANDCUFFS, EXCESSIVE FORCE. ON MAY 14, 02 "I GAVE CIO ALBONICO A NOTE INFORMING HIM MY LIFE WAS IN DANGER BY STAFF BY VARIOUS ABUSES. THE FT OF LEGAL MAIL I NEEDED TO SEE A SERGEANT" THIS TOOK PLACE AT 5:30 P.M. IN PRESENCE OF ALL MATE CHITS AS WE WERE HOUSED IN BUILDING C-A

(you need more space, attach one additional sheet.)

I DO NOT + BE PROTECTED AGAINST DISPENSE.

Action Requested: I REQUEST INVESTIGATION ONLY. "NO APPEAL COORDINATOR PROCESS ON INVESTIGATION." INTERVIEW PROGRAM CLERKS, ELLIOTT SMOOTH PETITIONER, "POLYGRAPH FOR ALL OFFICERS INVOLVED. CHECK FILES TO SEE IF ASSAULTED OTHER INMATES OR FABRICATED CDC 115S."

Date/Parolee Signature: Antonio Williams

Date Submitted: 5-27-02

INFORMAL LEVEL (Date Received: _____)

f Response: _____

BYPASS

Signature: _____

Date Returned to Inmate: _____

NORMAL LEVEL

are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and it to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

S7N3111

TO B LU RI TAF 20.

ure:

Property/Funds appeals must be accompanied by a completed
of Control form BC-1E, Inmate Claim

Date Submitted: _____

CDC Appeal Number: _____

First Level Granted P. Granted Denied Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 5/31/02

Due Date: 7/15/02

Interviewed by: C. Beckman, ISM LT.

See Attached

Staff Signature: C. Beckman Title: ISM LT. Date Completed: 7-2-02
 Division Head Approved: MM Returned
 Signature: MM Title: ISM OFP Date to Inmate: 7/2/02

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

H.D.U.P STAFF SENT USISL RESPONSE TO ME AS I RECEIVED 7-15-02 IN ATTEMPT TO VIOLATE THE CONSTRAINT ON 2nd LEVEL REVIEW. THIS WAS A ATTEMPTED MURDER, FEB. 1, CONGRESS BAHANALIC WAS NOTIFIED OF charges. I.S.U DID NOT INVESTIGATE

Signature: Antonio Williams

Date Submitted: 7-16-02

Second Level Granted P. Granted Denied Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 7-18-02 Due Date: 8-15-02

See Attached Letter

Signature: Ally CBI Appeals Coordinator

Date Completed: 7/23/02

Warden/Superintendent Signature: D. Cowan Date Returned to Inmate: 7-25-02

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

I.S.U DID NOT INVESTIGATE INTERVIEW PETITIONER WITNESSES, NO POLYGRAPH TEST WAS DONE, NO MENTION OF XRAY RESULT OF RIBS SHOW ALSO MR BECKMAN OF I.S.U DID NOT RECEIVE ANY TAPE STATEMENTS FROM WITNESSES, ALSO VIDEO TAPE PURPOSE ASSAULTIVE INJURIES. THE ALLEGED INVESTIGATION WAS UNDERTAKEN OR NEGIGENTLY TO PROTECT OFFICERS.

Signature: Antonio Williams

Date Submitted: 7-30-02

For the Director's Review, submit all documents to: Director of Corrections
 P.O. Box 942883
 Sacramento, CA 94283-0001
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: Granted P. Granted Denied Other
 See Attached Letter

Date: _____

CELL 124 "██████████ CIO ALBONICO LEFT
CAMP & IR WITH CIO PFACI BOTH BUILDING
8 OFFICERS TOLD ME AND CELLMATE SMITH
TO BACKUP TO POLYTHENE AND PLACED HAND
CUFFS ON EACH OF US TOLD TOWER OFFICER
PETERSON TO OPEN CELL DOOR AS WE WERE PLACED
INSIDE SHOWER AND CELL WAS SEARCHED. AFTER
SEARCH WE WERE PLACED BACK INSIDE THE CELL AS
THE HAND CUFFS WERE STILL ON. AGAIN PER NOTE I INFORMED
CIO ALBONICO I NEEDED TO SEE THE SGT. CIO PFACI PLACED
CELLMATE SMITH BACK IN SHOWER. CIO ALBONICO, CIO PFACI
TOOK ME OUT OF CELL AND WAS Escorting ME TO PROGRAM
OFFICE "ABOUT 100,150 FEET before ENTERING PROGRAM

OFFICE CIO ALBONICO ATTACKED ME KNOCKING ME TO THE
GROUND FOR NO REASON AND CIO PFACI AND CIO ALBONICO
STARTED PUMPING ME WITH BLOWS AS I'M YELLING FOR
HELP CIO ALBONICO, CIO PFACI ARE HITTING ME SAYING QUIT
RESISTING. SGT. G. TURNER, SGT. LOCKARD, SGT. PENNY,
CIO SCHAPPS ALL CAME OUT OF PROGRAM OFFICE JUMPED
ON ME PUMPING ME WITH BLOWS YELLING QUIT
RESISTING. THIS ASSAULT CAUSING VARIOUS INJURIES
ON A CIGARETTE BREAK. SGT. G. TURNER WHO ASSAULTED
ME IS INVESTIGATING VIDEO INTERVIEW OF
INJURIES & REQUESTING USE OF FORCE AGAINST ME
OVER MY REFUSAL ON VIDEO INTERVIEW SGT. TURNER
DO SO.

EACH DEPT. WHICH EMPLOYS PEACE OFFICERS
SHALL ESTABLISH A PROCEDURE TO INVESTIGATE
CITIZENS COMPLAINTS AND SHALL MAKE A
WRITTEN DESCRIPTION OF THE PROCEDURE
AVAILABLE TO THE PUBLIC pg 832-5

State of California

Exhibit 2

Department of Corrections

Memorandum

Date: July 2, 2002

Inmate WILLIAMS, J-05660
Housing Unit FDB3-211LSubject: APPEAL LOG # HDSP-S-02-01079
FIRST LEVEL RESPONSE

APPEAL DECISION: Appeal Partially Granted.

APPEAL ISSUE: You stated that Correctional Officers Albonico and Pfadt ordered you and your cellmate to back-up to the food port to be placed into handcuffs when you were housed in FCB8-126. You stated that you were placed into the shower and Officers Albonico and Pfadt searched your cell. You stated that you and your cellmate were placed back into your assigned cell. While you were still in handcuffs, you told Officer Albonico that you needed to see the Sgt. Your cellmate was placed into the shower and Officers' Albonico and Pfadt escorted you to the program office. You alleged that while you were under escort and approximately one hundred to one hundred and fifty feet from the program office, Officer Albonico attacked you, knocking you to the ground for no reason. You have alleged that Officers' Albonico and Pfadt started assaulting you, striking your upper torso areas with their fists. You stated that you yelled for help and Sgt. Turner, Sgt. Lockard, Sgt. Feery and C/O Schapp all responded out of the program office and jumped on you. You alleged that all responding staff started striking you with their fists while they yelled, "Quit resisting".

You stated that this assault caused various injuries to your person and two inmate program office clerks that were out on a cigarette break witnessed the assault. You alleged that Sergeant Turner assaulted you and then conducted the videotaped interview of you due to the injuries you sustained during the incident, against your will. You stated that Officer Albonico started pushing you when the escort to the Sergeant's office began. You stated that Officer Albonico grabbed the complaint out of your hand, pushed you down to the asphalt on the patio and started attacking you with his fists, striking your sides and back. You stated that Officer Albonico scarred your face by putting his foot on your head. You stated that you screamed for help while Officer Pfadt held you down. You alleged that all of the officers falsified documents. During your interview you stated that Officer Moore was also holding you down, torturing you. All of the C/O's that were holding you down were torturing you.

You have requested that you be protected against reprisals and that the Investigative Services Unit conduct an investigation into your allegations. You have requested that the two program clerks and your prior cellmate be interviewed. You also requested that the petitioner and all involved staff be given a polygraph and that files be checked to see if the involved staff has assaulted other inmates or fabricated CDC 115's.

age 2

APPEAL RESPONSE: Mr. Williams, in reaching a decision in your appeal, your CDC-602 and its attachments, your Central File, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview on June 21, 2002 with ISU Lt. Beckman, were reviewed and considered.

Your request to be protected against reprisals for filing this appeal is granted. 3084.1 (d) specifically states that No reprisal shall be taken against an inmate or parolee for filing an appeal.

Your request to have this appeal investigated by the Investigative Services Unit is considered granted as the issues you have cited have been researched. The administrative inquiry revealed that your allegations of misconduct on the part of Correctional Officers' N. Albonico, A. Pfadt, C. Moore, T. Jackson and Correctional Sergeants' R. Peery, C. Lockard and G. Turner can not be substantiated. The aforementioned Correctional Officers and Sergeants acted within the regulations and their scope of duty when this incident occurred. All allegations of staff misconduct are reviewed and evaluated to determine if the evidence supports the accusations.

Personal information associated with employee discipline is restricted and if any misconduct by the employee connected with your complaint was discovered during the review, the appropriate corrective measures will be taken.

Considering the information above your appeal has been partially granted. If you are dissatisfied with this decision, you may request a Second Level Review by following the instructions on your appeal form.



T. FELKER
Associate Warden
Complex II

c: Central File
Appeal File

State of California

Department of Corrections

Memorandum

Exhibit 3

Date: July 23, 2002

To: Williams, J-05660
High Desert State Prison

Subject: SECOND LEVEL APPEAL RESPONSE
LOG NO.: HDSP 02-01079

ISSUE:

It is the appellant's position that during an escort to the Facility C Program Sergeant's Office, Correctional Officer (C/O) Albonico and C/O Pfadt assaulted him. The appellant further alleges that he cried out for help, at which time Correctional Sergeant Turner, Correctional Sergeant Peery, and C/O Schapp all responded from the Program Office and attacked him.

The appellant requests on appeal that Investigative Services Unit (I.S.U.) investigated this incident. The appellant further requests that his witnesses be interviewed and that the staff members who are named in this appeal submit to polygraph examination. Lastly, the appellant requests for his Central File to be reviewed to determine if he has a staff assualtive history.

INTERVIEWED BY: C. Beckman, Correctional Lieutenant

REGULATIONS: The rules governing this issue are:

California Penal Code Section (PC) 832.7. Personnel records; confidentiality; discovery; exceptions; complaint disposition notification

(a) Peace officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(e) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

PC 832.8. Personnel records

As used in Section 832.7, "personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(d) Employee advancement, appraisal, or discipline.

WILLIAMS, J-05660
CASE NO. 02-01079
PAGE 2

(e) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

California Code of Regulations, Title 15, Section (CCR) 3004. Rights and Respect of Others.

(a) Inmates and parolees have the right to be treated respectfully, impartially, and fairly by all employees. Inmates and parolees have the responsibility to treat others in the same manner. Employees and inmates may use first names in conversation with each other when it is mutually acceptable to both parties.

(b) Inmates, parolees and employees will not openly display disrespect or contempt for others in any manner intended to or reasonably likely to disrupt orderly operations within the institutions or to incite or provoke violence.

(c) Inmates, parolees and employees will not subject other persons to any form of discrimination because of race, religion, nationality, sex, political belief, age, or physical or mental handicap.

CCR 3084.1. Right to Appeal.

(d) No reprisal shall be taken against an inmate or parolee for filing an appeal. This shall not prohibit appeal restrictions against an inmate or parolee abusing the appeal process as defined in section 3084.4.

CCR 3391. Employee Conduct.

(a) Employees shall be alert, courteous, and professional in their dealings with inmates, parolees, fellow employees, visitors and members of the public. Inmates and parolees shall be addressed by their proper names, and never by derogatory or slang reference. Prison numbers shall be used only with names to summon inmates via public address systems. Employees shall not use indecent, abusive, profane, or otherwise improper language while on duty. Irresponsible or unethical conduct or conduct reflecting discredit on themselves or the department, either on or off duty, shall be avoided by all employees.

Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff and a fact finding investigation has been completed at the First Level of Review.

In the event that staff misconduct was substantiated, the institution would take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. However, upon completion of final review, or culmination of an investigation, the appellant is to be notified by the respective investigative body that an inquiry has been completed and whether the complaint was unsubstantiated or substantiated. In this case, the complaint was not substantiated.

Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the appeals process.

Therefore, your request for no reprisals for filing this appeal is considered granted. CCR Title 15 section 3084.1 is very clear in regards to an inmate filing an appeal and that no reprisals will be taken against an inmate for doing so.

WILLIAMS, J-05666
CASE NO. 02-01079
PAGE 3

Your request to have this appeal investigated by the I.S. U. is considered granted. I.S.U. Lieutenant Beckman interviewed you and collected the relevant evidence during the fact finding inquiry into your allegations.

DECISION: The appeal is granted in part.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.


T. FELKER
Chief Deputy Warden (A)

c: Central File
Appeals File

State of California

Department of Corrections
High Desert State Prison

Memorandum

Date: March 1, 2002

Exhibit 4To: Inmate Williams, J-05660
FCB6-227L

Subject: SAFETY CONCERN

On February 5, 2002, a letter that you authored was forwarded to High Desert State Prison from Regional Administration-North for response. In your letter you state that you were in fear for your safety from Facility D Staff specifically, Correctional Officers K. Gullion and Karelas. You state that these officers released everyone in the FIDBI housing unit for the morning meal except for you and your cellmate. You further state that you were eventually released "last". You state that Officer Gullion authored a fictitious CDC 115 Rules Violation Report (RVR) and that during an escort from your building to the program office, Officer Gullion and Officer Karelas punched you repeatedly.

On February 28, 2002, you were interviewed by Lieutenant M. Bolls regarding the aforementioned safety concerns. You advised Lieutenant Bolls that you no longer have problems relative to your safety as you are now housed on Facility C. You further informed Lieutenant Bolls that you had filed a staff complaint against Officer Gullion relative to this issue and that you believe it is now at Third Level Review and that you did not wish to pursue this matter any further.

A review of both your Central file and Inmate Appeal records revealed the following. The RVR that you state was fictitiously authored by Officer Gullion dated December 3, 2000, was located and it is noted that you were charged with threatening a peace officer. It was also noted that you pled guilty to this charge and stated, "Yeah I know I should have kept my mouth shut, that's cool."

The staff complaint that you filed against Officer Guillion (Appeal Log # HDSP-S-00-032112) was in regard to the incidents that you state occurred on December 3, 2002. During your interview with Correctional Lieutenant C. Adams for First Level Response, you stated that departmental rules and regulation did not apply to you due to you being a federal agent and you refused to sign the required CDC Form 1858 Rights and Responsibility Statement. Due to your lack of cooperation your appeal was cancelled.

Based on the above, there is sufficient evidence to refute your allegations of staff misconduct. In the future, you are encouraged to exhaust administrative remedy by utilizing the inmate appeals process whenever you believe that any departmental decision, action, condition, or policy has adversely effected your welfare.



D. L. RUNNELS
Warden

STATE OF CALIFORNIA
CDC 1858 (2/97)

DEPARTMENT OF CORRECTIONS

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement.

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disciplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME <u>WILLIAMS, ANTONIO</u>	COMPLAINANT'S SIGNATURE <u>Antonio Williams</u>	DATE SIGNED <u>7-2-02</u>
INMATE/PAROLEE PRINTED NAME <u>WILLIAMS, ANTONIO</u>	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER <u>J05660</u> DATE SIGNED
RECEIVING STAFF'S PRINTED NAME <u>C. BALKMAN, LT.</u>	RECEIVING STAFF'S SIGNATURE <u>C. Balkman</u>	DATE SIGNED <u>7-2-02</u>

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

Exhibit 2

PROOF
Service

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)

33000 18974 00000 00000 70001 18400 00000 00000

TO EAGLE STA., SUSANVILLE, CA 96130-0660 UD 8/28/02

Postage	\$ 8.3
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.13

Sent To
Attorney General John Ashcroft
Street, Apt. No.;
or P.O. Box No. **PO BOX 3030**
City State, ZIP+4 **Washington DC 20035**

USPS 

PS Form 1380 (Rev. 1-2000) [See Reverse for Instructions](#)

Postage	\$ 83
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.13

Send To
President Bush
Street, Apt. No.
or PO Box No. 1600 Pennsylvania, Av
City, State ZIP + 4
Washington DC 20520

USPS Form 52-2000 (January 2000) - See Reverse for Instructions





U.S. Department of Justice

Civil Rights Division

Exh 3

ANM: TLM: Yl:bah
DJ 144-11E-1434

Criminal Section - PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

NOV 8 2002

Mr. Antonio Williams
J05660
High Desert State Prison
P.O. Box 3030
Susanville, CA 96127

Dear Mr. Williams:

This is in response to your undated letter, in which you allege that you were physically assaulted by corrections officers in High Desert State Prison on May 14, 2002.

The Federal Bureau of Investigation has been requested to conduct a preliminary investigation into this matter. You can be assured that if the evidence shows that there is a prosecutable violation of federal criminal civil rights statutes, appropriate action will be taken.

Thank you for bringing this matter to our attention.

Sincerely,

Albert N. Moskowitz
Section Chief
Criminal Section
Civil Rights Division

By:

Tamara Miller
Deputy Chief
Criminal Section

cc: Records Chrono Levy T. 10/31/02
S:\ylevy\MyFiles\Correspondence\Citizen Letters\Williams_Antonio
FBI.wpd

UCDAVIS
HEALTH SYSTEM

TELEMEDICINE

"Exhibit"

07/19/2006

RE: WILLIAMS, ANTONIO

MR#: 1827333

DOB: 12/26/1963

Date of Service: 07/19/2006

CDC#: J05660

Harold Tate, M.D.
California Correctional Institute
P.O. Box 1031
Tehachapi, CA 93581

Dear Dr. Tate:

Thank you very much for requesting a consultation on behalf of Antonio Williams, whom I had the pleasure of seeing in Orthopedic Telemedicine Clinic.

History Of Present Illness:

As you know, Mr. Williams is a right-handed gentleman who in 2002 suffered a severe traumatic right shoulder glenohumeral dislocation. The shoulder was dislocated with a dead-arm syndrome, numbness, tingling, and weakness in the arm. Since that time, he has had recurrent episodes of shoulder dislocation, more than five occasions. When it does happen, his arm tends to be weak and numb. He has pain at night, pain worse while trying to sleep or turn on that side. Pain is worse with any impingement maneuvers. He has had an x-ray which is within normal limits and an MRI showing tendinopathy within the supraspinatus tendon and minimal AC joint hypertrophy. At this stage, he willing to discuss a shoulder stabilization procedure.

Past Surgeries:

1. Status-post jaw fracture.

Medical Illnesses:

1. Hypertension.
2. Gastroesophageal reflux disease.

Medications:

Ranitidine, triamterene, hydrochlorothiazide, Naprosyn.

Allergies:

None known.

Family History:

Noncontributory.

Social History:

He is incarcerated.

Review Of Systems:

I refer you to the paper medical record.

Physical Examination:

RE: WILLIAMS, ANTONIO
MR#: 1827333

Page 2

On physical examination, he is an alert, cooperative gentleman in no acute distress. Gait and posture are normal. His arms are in restraints. Unfortunately, because of security clearance the restraints could not be removed and I could not perform a standard physical examination.

The MRI and x-ray results are as above.

Assessment:

Right shoulder glenohumeral dislocation, recurrent by history. Evaluation limited by the inability to do a physical examination because of restraints due to security clearance.

Plan:

I am recommending that Mr. Williams be evaluated for a capsular stabilization procedure. I realize that my recommendation is limited by the constraints of being unable to do a physical examination, but I feel it is quite reasonable given his history.

The patient was educated in the impression and the plan of care.

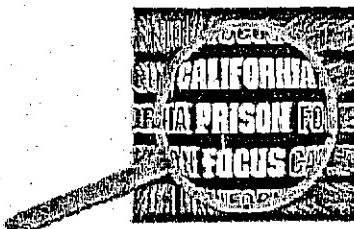
Thank you very much for your kind request for consultation.

Sincerely yours,

JEFFREY L TANJI, MD
ASSOCIATE MEDICAL DIRECTOR
DIVISION OF UCDHS PRIMARY CARE NETWORK
DEPARTMENT OF SPORTS MEDICINE
THIS WAS ELECTRONICALLY SIGNED - 07/21/2006 1:15 PM PST BY:

JLT:js(ml806)

D: 07/19/2006 08:49 AM
T: 07/20/2006 02:32 PM
C#: 2001149



5
Exhibit

California Prison Focus

2940 16th Street, Suite B-5 San Francisco, CA 94103

Phone: (415) 252-9211 Fax: (415) 252-9311

www.prisons.org

Chief Medical Officer Tate
California Correctional Institution
P.O. Box 1031
Tehachapi, CA 93581

June 27, 2005

Re: Antonio Williams, J-05660

Dear C.M.O. Tate:

I am writing in regards to an untreated medical need of Antonio Williams, a prisoner recently transferred to CCI-Tehachapi. Mr. Williams has a dislocation of his right shoulder, which occurred three years ago. Mr. Williams has received no treatment for 3 years. If Mr. Williams holds his hands behind his back in a certain way, his shoulder has a large lump on it, about the diameter of a tennis ball, which is discolored. I personally observed the lump on a visit with him last month.

The Chief Medical Officer of Pelican Bay sent a letter to our office on 12-22-04, stating that Williams's shoulder x-ray was normal. However, Mr. Williams has informed me that he continues to suffer chronic shoulder pain, which manifests as follows: he can't exercise; he can't effectively press his arm down while writing, making it harder for him to write (he is right-handed); he "feels the separation" in his joint.

Mr. Williams has never seen an orthopedist about his condition, and he has never received an MRI. I am not a doctor or medical expert, but I know that, at a minimum, given the large, discolored lump which is visible on his shoulder, and his continued complaints of pain, he ought to see a specialist. To deny him the attention of a specialist may be to deny him the ordinary standard of care. In addition, I am concerned that CDC has not released Mr. Williams' medical files to CPF, despite the fact that Mr. Williams informs me that he signed and submitted an authorization for us to view his files.

Mr. Williams is currently in the process of exhausting the 602 process, having submitted a third-level appeal last month. In the meantime, he awaits medical attention and care which is consistent with the ordinary standard of medical care. Please provide him with the needed medical attention, and please contact me at 415-252-9211 to discuss this matter.

Sincerely,

Scott Handleman, Attorney at Law

Cc: Antonio Williams

Exh 6

CORCORAN DISTRICT HOSPITAL
1310 HANNA AVENUE
CORCORAN, CALIFORNIA 93212
Telephone/559-992-5051 - Fax\559-992-3972

OPERATIVE REPORT

PATIENT: WILLIAMS, ANTONIO

#J05660

DATE OF SURGERY: 11/28/06

OPERATING SURGEON: DAVID G. SMITH, M.D.

ANESTHESIA: General

COMPLICATIONS: None

PREOPERATIVE DIAGNOSIS:

Internal derangement, right shoulder, with possible subluxing or dislocating right shoulder.

POSTOPERATIVE DIAGNOSIS:

1. No evidence for recurrent dislocations, right shoulder.
2. SLAP lesion, right shoulder.
3. Severe impingement, right shoulder.

OPERATION PERFORMED:

1. Examination of the right shoulder under anesthesia.
2. Arthroscopy, right shoulder.
3. Debridement of hypertrophic synovitis with partial synovectomy.
4. Debridement of SLAP lesion and repair of SLAP lesion, right shoulder.
5. Arthroscopic subacromial decompression, right shoulder.

PROCEDURE:

The patient was brought to the operating room and satisfactory anesthesia was established. The right shoulder was then examined under anesthesia. The history was quite vague in terms of actual dislocations of the right shoulder. For that reason, a thorough examination of the shoulder was carried out under anesthesia. There was some very mild laxity, what appeared to be posterior, but there was certainly no ability to frankly dislocate or sublux the shoulder either anteriorly or posteriorly. Therefore, I elected to proceed with arthroscopy of the right shoulder.

He was placed in the left lateral decubitus position. All bony prominences were padded appropriately and axillary roll was utilized. The right shoulder and arm were steriley prepped with Betadine solution and draped in the usual fashion.

Standard arthroscopic portals were created after infiltration with Marcaine and epinephrine. The arthroscope was inserted from the

CORCORAN DISTRICT HOSPITAL
OPERATIVE REPORT - PAGE 2

PATIENT: WILLIAMS, ANTONIO
#J05660
DATE OF SURGERY: 11/28/06

posterior portal and inspection of the glenohumeral joint was carried out.

There was hypertrophic synovitis in the joint. A partial synovectomy was performed. There was also considerable fraying and tearing of the anterior glenoid labrum and there was a SLAP lesion anteriorly. There was labral detachment anteriorly. There was no evidence of a SLAP lesion superior to the biceps insertion.

Articular surfaces were intact. There appeared to be some very minimal posterior laxity of the humeral head on the glenoid. The rotator cuff appeared to be intact from the articular side. Debridement of the anterior glenoid labrum was carried out with the motorized shaver and the glenoid labrum was prepared with a bur. Suretac was then utilized for repair of the anterior glenoid labrum. An excellent repair was obtained with the Suretac. As mentioned superiorly, the labrum was not detached.

The arthroscope was then removed and reinserted into the subacromial space. There was abundant subacromial bursitis noted. The rotator cuff was inspected and it was intact. There was considerable narrowing of the subacromial space. Soft tissue was cleared from the undersurface of the acromion in the usual manner with the ArthroCare. The anterior acromioplasty was then performed in the usual manner with the bur. The arthroscope was also inserted laterally to ensure that the anterior lip of the acromion had been adequately decompressed.

The rotator cuff was thoroughly inspected. There were no deep partial-thickness or full-thickness tears noted. Further debridement was carried out and then the arthroscope was removed. Incisions were sutured with 4-0 nylon. Marcaine with epinephrine was instilled into the joint. Betadine ointment, Adaptic, and sterile dressings were applied followed by an arm sling.

He was transferred to the recovery room in satisfactory condition. There were no complications. He tolerated the procedure well.

DAVID G. SMITH, M.D.

DGS/MST:db
D 11/28/06
T 11/28/06

Exh >

CALIFORNIA STATE PRISON, CORCORAN

JOHN D. KALARICH MEMORIAL HOSPITAL

DATE OF VISIT: April 6, 2007

Mr. Williams is status post arthroscopy on his right shoulder back in November. At that time there was equivocal evidence of any subluxation or dislocation and I could not appreciate any frank instability under anesthesia. He did have a labral tear which was repaired at the time of surgery. However, he states that he still feels instability symptoms in his right shoulder. I cannot be certain as to the etiology of his symptomatology and for that reason I am ordering an MRI scan of his right shoulder. I will see him back following the MRI scan on the shoulder.

David G. Smith, M.D.
Diplomate American Board of Orthopaedic Surgery

Date

DGS/b
D: 04/06/07
R: 04/11/07
T: 04/11/07
ORIG: Unit Health Record
Cc: Utilization Management

ORTHOPAEDIC CLINIC NOTE

NAME: WILLIAMS, ANTONIO

CDC#: J-05660

DOB: 12/26/63

INSTITUTION: CCI

E+8

4-B

MARSHALL S. LEWIS, M.D.

May 25, 2007

RE: WILLIAMS, ANTONIO
 CHART #: IMC0339
 CDC #: J05660/California Correctional Institution

INITIAL COMPREHENSIVE ORTHOPEDIC TELEMED CONSULTATION

The patient has a history and physical from Corcoran District Hospital. This was dictated on November 28, 2006. The impression at that time by Dr. David Smith was "Recurrent subluxation and dislocation of the right shoulder." It was felt the patient should undergo examination of the right shoulder under anesthesia at that time by Dr. Smith.

I am in receipt of an MRI of the right shoulder without contrast performed at Kern Radiology on August 18, 2005. The report was read by David Yuon. The conclusion by Dr. Yuon was "1) There is no rotator cuff tear, however, there is minimal tendinosis within the supraspinatus tendon; 2) There is minimal AC joint hypertrophy and arthritic change with minimal impression upon the underlying rotator cuff tendon; 3) There is a small amount of fluid within the subdeltoid space."

I am in receipt of an operative report from David G. Smith, M.D., at Corcoran District Hospital. The date of surgery was November 28, 2005. The postoperative diagnoses listed by Dr. Smith were "1) No evidence for recurrent dislocations, right shoulder; 2) SLAP lesion, right shoulder; 3) Severe impingement, right shoulder." The operation performed was "1) Examination of the right shoulder under anesthesia; 2) Arthroscopy of the right shoulder; 3) Debridement of hypertrophic synovitis with partial synovectomy; 4) Debridement of SLAP lesion and repair of SLAP lesion, right shoulder; 5) Arthroscopic subacromial decompression, right shoulder." This operative report has been reviewed in its entirety.

I am in receipt of a letter dated July 19, 2006, from UC Davis Health Systems. This report indicates "The patient suffered severe traumatic right shoulder glenohumeral dislocation. The shoulder was dislocated with dead arm syndrome, numbness, tingling and weakness in the arm since that time. He has had recurrent episodes of shoulder dislocation more than five occasions." Under the

RE: WILLIAMS, ANTONIO
Page 3
May 25, 2007

the right shoulder to determine if there is any injury to the musculature and to the nerve innervation. The patient will also have an MRI of the right shoulder repeated to determine if there is any evidence of subluxation. It also felt, for the sake of completeness, a bone scan should be performed to see if there is any increased uptake throughout the right shoulder. If this work-up is completed and is negative, this will be discussed further with the patient.

The patient was somewhat argumentative with myself today. I feel the patient certainly expressed his opinions in a rather raucous way. I also explained to the patient that we are trying to see if there is anything clinical that we can find with his condition. The patient refused to understand what I was trying to explain to him. He did get very verbal and the Correctional Sergeant had to step in. The patient kept yelling "Well, I'll see what you have to say in court." It was felt the patient was getting out of control as far as verbal statements and the Correctional Sergeant had to step in, and the Telemed consultation with the patient was then terminated.

Marshall S. Lewis, M.D.

/sl

6/4/07

OB

KERN RADIOLOGY MEDICAL GROUP INC.
2301 Bahamas Drive
Bakersfield, CA 93309
(661) 322-1981

**TEHACHAPI STATE PRISON
FAX (661) 822-8586 or 823-3328**

PATIENT: WILLIAMS, ANTONIO DOB: 12/26/63 CDC#: J05660
HOUSING #:

INTERPRETATION OF OUTSIDE FILMS: MRI OF THE RIGHT SHOULDER WITHOUT CONTRAST: 06/29/2007

TECHNIQUE: Multiplanar images were obtained without intravenous contrast utilizing a series of customized pulse sequences.

FINDINGS: There are moderate to severe arthritic and hypertrophic changes of the acromioclavicular joint. There is fluid within the acromioclavicular joint sack and degenerative cystic changes within the distal clavicle. The distal clavicle overrides the distal acromion and there is mild impression upon the underlying supraspinatus tendon and muscle with mild tendinosis of the supraspinatus tendon. There is no rotator cuff tear, either partial or full thickness. The glenohumeral structures are normal. They biceps tendon is normally located and intact. There is no atrophy cuff muscle bodies. Minimal degenerative subchondral cystic change is present within the superior bony glenoid.

IMPRESSION:

1. Moderate to severe arthrosis and hypertrophy of the acromioclavicular joint as described above. As a result, there is mild impression upon the underlying supraspinatus tendon.
 2. Mild tendinosis of the supraspinatus tendon, but no rotator cuff tear.
 3. Minimal degenerative subchondral cystic change within the superior bony glenoid.

David D. Yuan, M.D.

D: 07/05/2007 T: 07/06/2007/asa

Referring Physician: O'BRIEN, M.D.

Referring Physician:
COLONIAL MEDICAL GROUP
820 34TH ST #102
BAKERSFIELD 93301

PROCEDURE:
COMPARISON:
INDICATION:

NUCLEAR MEDICINE BONE SCAN, TRIPLE PHASE.
None
RIGHT SHOULDER PAIN.

TECHNIQUE:

Following the intravenous injection of Tc99m-HDP gamma cameras views were obtained in rapid succession resulting in a series of technigraphic flow images. This was immediately followed by blood pool images in the same orientation. Delayed static scans were then performed of the indicated regions of interest. Tc99m-HDP, 24.6 mCi

FINDINGS: There is very slight increased flow to the area of the right acromioclavicular joint. Blood pool images show a similar slight asymmetric increased activity in the same area. The flow and blood pool are otherwise intact. The delayed imaging shows intense accumulation of activity in the area as well. The remaining static images are intact.

CONCLUSION:

1. Abnormal exam as outlined above. Increased flow, blood pool, and delayed static activity in the area of the right AC joint and acromion. Radiographs are recommended. Findings are compatible with a hypermetabolic abnormality with increased bone turnover. Infection is a possibility but the findings are nonspecific. Other possibilities should be considered as well. Even a healing fracture could have this appearance.

Dictated by: William M. Dunn, M.D. on 07/13/2007 at 14:06

Transcribed by: KH on 07/13/2007 at 14:30

Approved by: William M. Dunn, M.D. on 07/13/2007 at 17:25

↑ ↑ Area
↓ ↓ E 64743

"EXH"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTONIO LUIS WILLIAMS, v. DIRECTOR OF DOJ, JOHN ASHCROFT, ET AL., Defendants.

*ORIGINAL
FILED*

FEB 22 2005 NO. C 04-1329 CW (PR)

Plaintiff,

v.

DIRECTOR OF DOJ, JOHN ASHCROFT,)
ET AL.,)
Defendants.)

RICHARD W. WIEKING ORDER GRANTING DEFENDANTS'
CLERK, U.S. DISTRICT COURT FOR SUMMARY JUDGMENT
NORTHERN DISTRICT OF CALIFORNIA AND TERMINATING ALL PENDING
OAKLAND MOTIONS

(Docket nos. 27, 8, 9, 11, 12,
14, 15, 20, 21, 22, 24, 25,
31, 32, 34, 38)

INTRODUCTION

Plaintiff Antonio Luis Williams, a State prisoner incarcerated at Pelican Bay State Prison (PBSP), filed this civil action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, requesting the Court to enjoin Defendants, officials of the Department of Justice (DOJ), from denying him access to documents which will prove that he is innocent of the crimes for which he was convicted.¹ The Court directed Defendants to respond to the complaint. Now pending is Defendants' motion for summary judgment, which has been briefed fully by the parties. For the reasons discussed below, the Court GRANTS the motion for summary judgment.

STANDARD OF REVIEW

Summary judgment is properly granted when no genuine and disputed issues of material fact remain and when, viewing the evidence most favorably to the nonmoving party, the movant is

¹This Court denied on the merits Petitioner's federal petition for a writ of habeas corpus challenging the constitutional validity of his conviction. See Williams v. Runnels, 02-2310 CW (Order Denying Petition for a Writ of Habeas Corpus, Mar. 4, 2004). Petitioner appealed that ruling to the Ninth Circuit. On January 18, 2005, the Ninth Circuit affirmed the judgment of the District Court.

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1 clearly entitled to prevail as a matter of law. Fed. R. Civ. P.
2 56; Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986);
3 Eisenberg v. Ins. Co. of N. Am., 815 F.2d 1285, 1288-89 (9th Cir.
4 1987).

5 The moving party bears the burden of showing that there is no
6 material factual dispute. Material facts which would preclude
7 entry of summary judgment are those which, under applicable
8 substantive law, may affect the outcome of the case. The
9 substantive law will identify which facts are material. Anderson
10 v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Where the moving
11 party does not bear the burden of proof on an issue at trial, the
12 moving party may discharge its burden of showing that no genuine
13 issue of material fact remains by demonstrating that "there is an
14 absence of evidence to support the nonmoving party's case."
15 Celotex, 477 U.S. at 325. The burden then shifts to the nonmoving
16 party, who must go beyond the pleadings and, by its own affidavits
17 or discovery, "set forth specific facts showing that there is a
18 genuine issue for trial." Fed. R. Civ. P. 56(e). A complete
19 failure of proof concerning an essential element of the nonmoving
20 party's case necessarily renders all other facts immaterial.
21 Celotex, 477 U.S. at 323. For purposes of summary judgment the
22 court must regard as true the opposing party's evidence, if
23 supported by affidavits or other evidentiary material. Celotex,
24 477 U.S. at 324; Eisenberg, 815 F.2d at 1289.

25 BACKGROUND.

26 The following statement of facts is undisputed unless
27 otherwise noted, and is taken from the allegations in Plaintiff's
28 verified complaint and the declarations and evidence submitted by

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1 the parties in support of and in opposition to the motion for
2 summary judgment.

3 In February, 2000, Plaintiff sent what he refers to as a
4 "corruption complaint" against the Oakland Police Department to
5 John Ashcroft at the DOJ. In January, 2001, he sent a copy of a
6 September, 2000, complaint to President Bush, informing him that
7 DOJ officials had taken no action. Plaintiff received a letter
8 from the DOJ dated February 26, 2001. The letter was from the
9 Special Litigation Section of the Civil Rights Division (CRD). It
10 informed Plaintiff that the CRD's authority does not extend to
11 investigating individual grievances and suggested that Plaintiff
12 consider contacting a private attorney. See Hermilla Decl. in
13 Support of Motion for Summary Judgment, Ex. B. The letter was
14 assigned DOJ file number 168-11E-0/125981.

15 Thereafter, Plaintiff submitted a FOIA request to the DOJ
16 asking for all information and documents contained in DOJ file
17 number 168-11-E-0/125981. The CRD received the request on July 5,
18 2002, and the FOI/PA Branch of the CRD received the request on
19 March 7, 2003. See id., Ex. A. In response to the request, the
20 FOI/PA Branch searched to locate responsive records and determined
21 that, other than the February 26, 2001, letter from the Special
22 Litigation Section, the CRD had no responsive documents. This
23 determination was confirmed by the fact that Plaintiff's February
24 26, 2001, letter had a "0" file number, which indicated that no
25 investigation was opened and that any records in the "0" file would
26 have been destroyed in accordance with the National Archives and
Records Administration records retirement schedule.

27
28 In a letter dated August 13, 2003, the Chief of the FOI/PA

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1 Branch explained to Plaintiff that no documents existed within DOJ
2 file 168-11E-0 and informed him of his appeal rights. On September
3 5, 2003, Plaintiff sent an appeal to the DOJ Office of Information
4 and Privacy. In a letter dated November 26, 2003, that office
5 affirmed the CRD's actions.

6 Plaintiff filed this action on April 6, 2004. In an Order
7 dated June 24, 2004, the Court directed Defendants to respond to
8 the complaint. Upon receiving the Court's Order, the FOI/PA Branch
9 learned for the first time of letters that Plaintiff had sent to
10 Tamara Miller, the former Deputy Chief of the Criminal Section.
11 The FOI/PA Branch then conducted additional FOIA searches--both
12 manual and computer-based--to determine if there were any further
13 responsive documents. The FOI/PA Branch's additional searches
14 revealed that the Criminal Section had opened a file and sent
15 information relating to Plaintiff's allegations to the Federal
16 Bureau of Investigation (FBI). The FOI/PA Branch's additional
17 inquiry also revealed that the Criminal Section's file on the
18 matter is an open investigation.

19 In a letter dated September 3, 2004, the FOI/PA Branch
20 informed Plaintiff that he might wish to contact the FBI to request
21 any documents relating to his allegations. In addition, on
22 September 14, 2004, the FOI/PA Branch produced eighteen pages of
23 responsive documents relating to the Criminal Section's open
24 investigation, but withheld fourteen pages of documents under
25 various provisions of the FOIA. Specifically, the CRD denied
26 Plaintiff access to attorney e-mails and other notes regarding its
27 investigation of Plaintiff's allegations, pursuant to 5 U.S.C.
28 § 552(b)(7)(A), on the ground that disclosure thereof could

1 reasonably be expected to interfere with ongoing law enforcement
2 proceedings. The CRD also denied access to these records pursuant
3 to 5 U.S.C. § 552(b)(5), on the ground that the records contain
4 attorney work product and pre-decisional deliberative materials,
5 and pursuant to 5 U.S.C. § 552(b)(7)(C), on the ground that
6 disclosure thereof could reasonably be expected to constitute an
7 unwarranted invasion of the personal privacy of witnesses,
8 interviewees and/or targets. Plaintiff did not file an appeal
9 regarding the September 14, 2004, response to his request.

DISCUSSION

10 The FOIA mandates a policy of broad disclosure of government
11 documents when production is properly requested of an agency. See
12 5 U.S.C. § 552(a). The FOIA obligates the government to produce
13 documents within its "possession or control." See Kissinger v.
14 Reporters Comm. for Freedom of Press, 445 U.S. 136, 150-51 (1980).
15 If a government agency claims that it does not possess or control a
16 requested document, the agency must show it fully discharged its
17 statutory obligations by conducting a search reasonably calculated
18 to uncover all relevant documents. See Urban v. United States, 72
19 F.3d 94, 95 (8th Cir. 1995); Weisberg v. United States Dep't of
20 Justice, 705 F.2d 1344, 1351 (D.C. Cir. 1983). The issue to be
21 resolved is not whether there might exist any other documents
22 possibly responsive to the request, but rather whether the search, in
23 for those documents was adequate. The adequacy of the search, in
24 turn, is judged by a standard of reasonableness and depends upon
25 the facts of each case. See Zemansky v. EPA, 767 F.2d 569, 571
26 (9th Cir. 1985).
27 An agency may withhold a requested document only if it falls
28

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1 within one of nine statutory exemptions to the disclosure
2 requirement. See Dobronski v. FCC, 17 F.3d 275, 277 (9th Cir.
3 1994) (citing 5 U.S.C. § 552(b)). The FOIA establishes federal
4 district court jurisdiction to conduct de novo review of agency
decisions to deny requested access to agency records. Jurisdiction
5 is dependent upon a showing that an agency has (1) improperly (2)
6 withheld (3) agency records. See Kissinger, 445 U.S. at 150.
7 "Judicial authority to devise remedies and enjoin agencies can only
8 be invoked, under the jurisdictional grant conferred by § 552, if
9 the agency has contravened all three components of this
10 obligation." Id.

11 The FOIA requires that administrative appeals be exhausted
12 before suit may be brought in federal court. See Hymen v. Merit
13 Systems Protection Bd., 799 F.2d 1421, 1423 (9th Cir. 1986), cert.
14 denied, 481 U.S. 1019 (1987). Failure to do so is grounds for
15 dismissal for lack of subject matter jurisdiction. Id.

16 Defendants argue that Plaintiff's complaint must be dismissed
17 as moot because the CRD FOI/PA Branch has provided him with
18 eighteen pages of responsive documents and he has not challenged
19 that decision. Defendants also assert that any challenge to their
20 withholding of fourteen pages of exempt documents under 5 U.S.C.
21 §§ 552(b)(7)(A), (b)(5) and (b)(7)(C) must be dismissed because
22 Plaintiff has not exhausted his administrative remedies.

23 The Court agrees with Defendants' assessment. An action to
24 compel the production of documents under the FOIA is mooted when
25 the agency in control of the requested documents delivers them to
26 the plaintiff. See Carter v. Veterans Admin., 780 F.2d 1479, 1481
27 (9th Cir. 1986). Dismissal is then warranted. See id. This is so

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even if the documents are provided after the Plaintiff has filed suit in district court, and notwithstanding the agency's initial provision of erroneous and incomplete information to the Plaintiff. Id.; see also Papa v. Untied States, 281 F.3d 1004, 1013 (9th Cir. 2002) (production of all nonexempt material, however belatedly, moots FOIA claims). Here, Plaintiff's complaint sought to enjoin Defendants from withholding documents responsive to his FOIA request. Since the complaint was filed Defendants have provided Plaintiff with all responsive material which they claim is nonexempt. Plaintiff has not challenged this decision by way of an agency appeal and his opposition to Defendants' motion for summary judgment does not address Defendants' argument. Accordingly, because the agency has provided Plaintiff with all responsive nonexempt documents in its possession and Plaintiff has not challenged this decision, his request for Court action is moot.

To the extent Plaintiff is dissatisfied with Defendants' response to his FOIA request and seeks access to the documents which Defendants claim are exempt, he must exhaust all DOJ CRD FOI/PA administrative remedies before pursuing such claim in federal court. In his September 14, 2004, letter to Plaintiff, Nelson Hermilla, Chief of the CRD, tells Plaintiff how he can appeal the CRD's decision.

Plaintiff has failed to raise a triable issue of fact with respect to whether his claim that Defendants have failed to provide him with responsive documents is moot. He also has failed to raise a triable issue of fact with respect to whether he has exhausted administrative remedies in response to Defendants' refusal to provide him with certain documents. Accordingly, summary judgment

1 is GRANTED to Defendants on the grounds of mootness and
2 nonexhaustion of administrative remedies.

3 PLAINTIFF'S PENDING MOTIONS

4 Since June 28, 2004, Plaintiff has filed fifteen ex parte
5 motions, which the Court now reviews.

6 Plaintiff has filed two motions for immediate injunctive
7 relief. He seeks transfer to a hospital to X-ray a dislocated
8 shoulder he suffered after allegedly being beaten in 2002. This
9 claim was addressed by the Court in Plaintiff's action, Williams v.
10 Runnels, C 04-0782 CW, filed on March 16, 2004. Accordingly, the
11 motions for immediate injunctive relief are DENIED (docket nos. 8,
12 20).

13 Plaintiff has filed two motions asking the Court to recuse
14 itself from presiding over this action. Specifically, Plaintiff
15 maintains that the Court's denial of his federal habeas petition
16 (Williams v. Runnels, C 02-2310 CW) was erroneous and the Court is
17 biased against him. Plaintiff's allegations are legally
18 insufficient to establish that the Court has a personal bias or
19 prejudice against him. Accordingly, the motions for recusal are
20 DENIED (docket nos. 9, 24). See 28 U.S.C. § 144; United States v.
21 \$292,888.04 in U.S. Currency, 54 F.3d 564, 566 (9th Cir. 1995)

22 (affidavit inadequate when based on mere conclusory allegations).
23 Plaintiff's motions asking the Court to notify the Ninth Circuit
24 that his conviction should be reversed based on newly discovered
25 evidence are also DENIED (docket nos. 31, 34, 38). Plaintiff
26 should have raised any arguments concerning this Court's ruling on
27 his habeas petition to the Ninth Circuit in his appeal.

28 Plaintiff has filed two motions to award monetary damages.

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1 Damages are not available in a FOIA action. See 5 U.S.C.
2 § 552(a)(4)(B); Gale v. United States Dep't of Justice, 628 F.2d
3 224, 226 n.4 (D.C. Cir. 1980). Accordingly, these motions are
4 DENIED (docket nos. 14, 32).

5 Plaintiff has filed two discovery motions asking the Court to
6 order the DOJ to provide him with documents. Access to these
7 documents is the gravamen of Plaintiff's FOIA claim, which has been
8 denied for the reasons set forth above. Accordingly, these
9 discovery requests are DENIED as moot (docket nos. 11, 21).

10 Plaintiff has filed a motion asking the Court to reconsider
11 that portion of its June 24, 2004, Order dismissing Plaintiff's
12 non-FOIA claims. Plaintiff has not presented persuasive grounds
13 for reconsideration. Accordingly, this motion is DENIED (docket
14 no. 12). See Civil L.R. 7-9.

15 Plaintiff's motions to appoint counsel, to call an expert
16 witness and for leave to proceed in forma pauperis are DENIED as
17 moot (docket nos. 15, 22, 25).

18 CONCLUSION

19 For the foregoing reasons, Defendants' motion for summary
20 judgment is GRANTED. (Docket no. 27). The Clerk of Court shall
21 terminate all pending motions and enter judgment in favor of
22 Defendants.

23 IT IS SO ORDERED.

24 DATED: 2/22/05

25 /s/ CLAUDIA WILKEN

26 CLAUDIA WILKEN
27 United States District Judge

IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA SEP - 1 2006
Exhibit # 12
ORIGINAL FILED

ANTONIO LUIS WILLIAMS
vs
DWIGHT WINDLOW ET AL

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

CASE NO.

105-cv-07560-owlw-wm

AFFIDAVIT TO
ASSIGNED JUDGE,
U.S.D.O.J. PARALEGAL
SPECIALIST KELVIN T.
CALLAHAN CRIM. SECT.
OF OFFER SETTLEMENT
AGREEMENT:

PETITIONER COME WITH SAID AFFIDAVIT AS
TITLED RESPECTFULLY IN PENDING MATTER
IN SAID U.S.D.C. U.S. DEPT. OF JUSTICE, ON AUG
14-06 PETITIONER SERVED A ORIGINAL, AND
COPY OF THIS AFFIDAVIT ON THIS COURT
AND ATTORNEY GENERAL BILL LOCKYER AND
NOT U.S. DEPT. OF JUSTICE CRIM SECTION
SEE ATTACHE MARKED EXHIBIT 1. PETITIONER
BY THIS AFFIDAVIT HEREOF IS NOTICE HE NOW
HAS INCLUDED AND SERVED A COPY ON U.S. DEPT.
OF JUSTICE CRIM SECTION PARALEGAL SPECIALIST
KEVIN T. CALLAHAN

RESPECTFULLY SUBMITTED,

DATED: 8-29-06

I DECLARE UNDER
PENALTY OF PERJURY
ALL TRUE.

Antonio Williams
105660

IN THE U.S. DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA
ANTONIO LUIS WILLIAMS
VS.
DWIGHT WILSON ET AL

ORIGINAL
FILED

AUG 17 2006

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY

DEPUTY CLERK

CASE NO.
105-CV-01560-OKW-WMK

AFFADALIT TO
ASSIGNED JUDGE,
ATTY GEN BILL LOCKER
OF OFFER SETTLEMENT
AGREEMENT!

PETITIONER HEREBY COME WITH SAID TITLED
AFFADALIT RESPECT FULLY IN PENDING MATTER
NO ORDER OF COMPLAINT BEEN SERVED TO
PETITIONER'S KNOWLEDGE ON DEFENDANTS
OR ATTORNEY GENERAL OFFICE REPRESENTATIVE
FOR DEFENDANT (PLATA VS. DAVIS) PETITIONER
STATES. HE'S BEEN WITHOUT MEDICAL TREAT-
MENT FOR A DISLOCATED SHOULDER 4 yrs
4 MONTHS SUFFERED BY A MAY 14, 02 EXCUS-
IATION FOR A DISLOCATED SHOULDER 4 yrs
COURT ORDER BY U.S. D.O.J. SEE EXHIBIT A DEC 7, 05
CU-01560-OKW-WMK PENDING THEREIN U.S. D.C.
FOR EASTERN DISTRICT OF CALIF. PETITIONER STATES
AS APART OF ANY MONETARY SETTLEMENT FROM
DEFENDANT IN THIS CASE OR PENDING CON-
SOCIATED ACTIONS HE'S WILLING, WISHES
TO SETTLE THESE CASES COLLECTIVELY
AND AS PART OF ANY AGREEMENT

will, wished to withdraw complaint against
officers sent to U.S. Dept. of Justice in
response to it in letter dated Nov 8, 02
for investigation. Any pending investigation
excessive force, changes and settle assault
civic monetary damages, this info, affidavit
includes to settle in this agreement pending
civic complaint filed Apr 28, 06 case no. 106-cv-00511-Awkins
Harold Tate et al vs. Williams filed after this
action against chief medical officer here at
Calif Correctional Institution by Deliberate
indifference also denied, delayed, obstructed
medical treatment for dislocated shoulder,
injury, also see Exhibit A plus picture of injury existence
also see Exhibit A U.S. Dept. of Nov 8, 02 letter
of inquiry.

Respectfully submitted,

I declare under
penalty of perjury
all true.

Dated: 8-14-06

Antonio Williams

Exhibit A

ANTONIO LUIS WILLIAMS, ORIGINAL NO. C 05-2002 CW (PR)

Plaintiff, *DEC* E D

v. 12005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

N. ALBONICO, ET AL. Defendants.

ANTONIO LUIS WILLIAMS,

NO. C 05-4200 CW (PR)

Plaintiff.

v.

DWIGHT WINSLOW, ET AL.

Defendants.

ORDER CONSOLIDATING AND
TRANSFERRING ACTIONS TO THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA

Plaintiff Antonio Luis Williams is a prisoner of the State of California who was incarcerated at Pelican Bay State Prison (PBSP) when he filed this civil rights complaint. Since June 16, 2005, however, he has been incarcerated at Tehachapi State Prison, which is located in Kern County, California.

In an Order dated December 22, 2004, this Court held that Plaintiff generally is barred from proceeding in forma pauperis in federal court under the provisions of 28 U.S.C. § 1915(g).¹ Both

¹The Prison Litigation Reform Act of 1995 (PLRA), which was enacted on April 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment under the in forma pauperis provisions of 28 U.S.C. § 1915:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state

United States District Court
For the Northern District of California

1 prior to and since the entry of that Order Plaintiff filed actions
2 seeking to compel prison officials at PBSP to provide him with
3 treatment for an injured shoulder from which he has suffered since
4 prison officials used force against him at High Desert State Prison
5 (HDSP) in 2002. Plaintiff did receive x-rays at PBSP in May, 2004,
6 and the doctor told him that no injury was present. Because
7 Plaintiff was not allowed to see the x-rays, however, he objected
8 to the doctor's conclusion and continued to seek additional
9 diagnostic procedures and medical care.

10 The Court dismissed Plaintiff's complaints without prejudice
11 because of his conceded failure to exhaust administrative remedies,
12 see, e.g., Williams v. McGrath, C 04-2542 CW, and because he had
13 not made the requisite showing for application of the "imminent
14 danger of serious physical injury" exception to § 1915(g), see In
15 re: Antonio Luis Williams, Nos. C 04-5041 CW, C 04-5255 CW, C 05-
16 0253 CW. With respect to the imminent danger exception the Court
17 wrote:

18 If Plaintiff maintains that he is in need of immediate
19 medical care and is unable to pay the filing fee, he may
seek leave to proceed with this claim under § 1915(g)
20 PROVIDED that he files a civil rights complaint which
asserts ONLY this claim and which names as Defendants
21 those individuals at Pelican Bay State Prison who are
responsible for denying him medical care and/or who can
22 provide him with relief. If Plaintiff continues to make
conclusory allegations about the care to which he
23 maintains he is entitled and continues to name the Court,
who is not responsible for Plaintiff's medical care, as a
24 Defendant, his actions will be dismissed.

25 The present complaints are duplicative of past actions
26 filed by Plaintiff and do not allege facts which fall
within the "imminent danger of serious physical injury"

27 _____
28 a claim upon which relief may be granted, unless the prisoner
is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

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1 exception to § 1915(g). Accordingly, they will be
2 dismissed.

3 Order at 3 (Apr. 27, 2005).

4 Shortly thereafter, Plaintiff filed the first of his present
5 complaints, Williams v. Albonico, C 05-2002 CW, in which he repeats
6 previously raised allegations that PBSP Warden Joe McGrath
7 conspired with Chief Medical Doctor Dwight Winslow not to treat him
8 for his shoulder injury in an attempt to obstruct an investigation
9 by the Department of Justice (DOJ) into the cause of the injury,
10 and that after he was assaulted at HDSP x-rays were taken of his
11 shoulder on May 15, 2002, but he was told falsely that they were
12 negative. He alleged that the imminent danger exception to
13 § 1915(g) applied because he was in imminent danger of having
14 charges filed against him because of complaints he had filed with
15 the DOJ. It was not until July 22, 2005, when the Court received a
16 document from Plaintiff entitled "Affadavit [sic] of Witness, of
17 Injury," that Plaintiff's request for additional medical care for
18 his shoulder was made clear. By then, Plaintiff had been
19 transferred to Tehachapi State Prison. Since then, Plaintiff has
20 continued to file numerous documents in this action, most of them
21 duplicative, which seek damages from various doctors and injunctive
22 medical relief from doctors at Tehachapi State Prison.

23 On October 18, 2005, Plaintiff filed another civil rights
24 action, Williams v. Winslow, et al., C 05-4200 CW, in which he
25 seeks damages for allegedly inadequate medical care by PBSP doctors
26 and injunctive medical relief from doctors at Tehachapi State
27 Prison.

28 On November 9, 2005, Plaintiff filed a motion to consolidate

1 the two pending actions.

The Court finds that, standing alone, Plaintiff's claims for damages for inadequate medical care do not meet the imminent danger exception to the exhaustion requirement. But, liberally construed, his claims for injunctive medical relief do. Therefore, the Court will not dismiss the complaints under § 1915(g). Because Plaintiff now is incarcerated at Tehachapi State Prison, however, the Court will transfer the complaints to the United States District Court for the Eastern District of California.

1 Accordingly, in the interests of justice, Plaintiff's request
2 to consolidate these actions is GRANTED. The Clerk of the Court
3 shall CONSOLIDATE the cases into the low case number, C 05-2002 CW,
4 and shall TRANSFER the files forthwith to the United States
5 District Court for the Eastern District of California. 28 U.S.C.
S 1406(a).

IT IS SO ORDERED.

18 | DATED: 12/1/05

Claudia Wilken

Claudia Wilken
United States District Judge

Exhibit B

California Prison Focus

2940 16th Street, Suite B-5 San Francisco, CA 94103

Phone: (415) 252-9211 Fax: (415) 252-9311

www.prisons.org



Chief Medical Officer Tate
California Correctional Institution
P.O. Box 1031
Tehachapi, CA 93581

June 27, 2005

Re: Antonio Williams, J-05660

Dear C.M.O. Tate:

I am writing in regards to an untreated medical need of Antonio Williams, a prisoner recently transferred to CCI-Tehachapi. Mr. Williams has a dislocation of his right shoulder, which occurred three years ago. Mr. Williams has received no treatment for 3 years. If Mr. Williams holds his hands behind his back in a certain way, his shoulder has a large lump on it, about the diameter of a tennis ball, which is discolored. I personally observed the lump on a visit with him last month.

The Chief Medical Officer of Pelican Bay sent a letter to our office on 12-22-04, stating that Williams's shoulder x-ray was normal. However, Mr. Williams has informed me that he continues to suffer chronic shoulder pain, which manifests as follows: he can't exercise; he can't effectively press his arm down while writing, making it harder for him to write (he is right-handed); he "feels the separation" in his joint.

Mr. Williams has never seen an orthopedist about his condition, and he has never received an MRI. I am not a doctor or medical expert, but I know that, at a minimum, given the large, discolored lump which is visible on his shoulder, and his continued complaints of pain, he ought to see a specialist. To deny him the attention of a specialist may be to deny him the ordinary standard of care. In addition, I am concerned that CDC has not released Mr. Williams' medical files to CPF, despite the fact that Mr. Williams informs me that he signed and submitted an authorization for us to view his files.

Mr. Williams is currently in the process of exhausting the 602 process, having submitted a third-level appeal last month. In the meantime, he awaits medical attention and care which is consistent with the ordinary standard of medical care. Please provide him with the needed medical attention, and please contact me at 415-252-9211 to discuss this matter.

Sincerely,

Scott Handleman, Attorney at Law

Cc: Antonio Williams

STATE OF CALIFORNIA

MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCEExh C

DEPARTMENT OF CORRECTIONS

NAME OF INSTITUTION CCT	FACILITY/UNIT IN B	REASON FOR REPORT (circle) USE OF FORCE	INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE 1-21-07
THIS SECTION FOR INMATE ONLY	NAME LAST Williams	FIRST	CDC NUMBER J05640	HOUSING LOC. 4C-105L	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST	MIDDLE	DOB	OCCUPATION
	HOME ADDRESS	CITY	STATE	ZIP	HOME PHONE

PLACE OF OCCURRENCE DH #4	DATE/TIME OF OCCURRENCE 1-21-07 @ 1745	NAME OF WITNESS(ES)						
TIME NOTIFIED 1740	TIME SEEN 1745	ESCORTED BY 603 Hogan	MODE OF ARRIVAL (circle) AMBULATORY	LITTER ON SITE	WHEELCHAIR	AGE 42	RACE BLK	SEX M

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

You stated, "officer Miles & Hopskin slammed me into the shower. I already had 2 sore shoulder."

INJURIES FOUND?	YES / NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19

O.C. SPRAY EXPOSURE? YES / NO

DECONTAMINATED? YES / NO

Self-decontamination instructions given? YES / NO

Refused decontamination? YES / NO

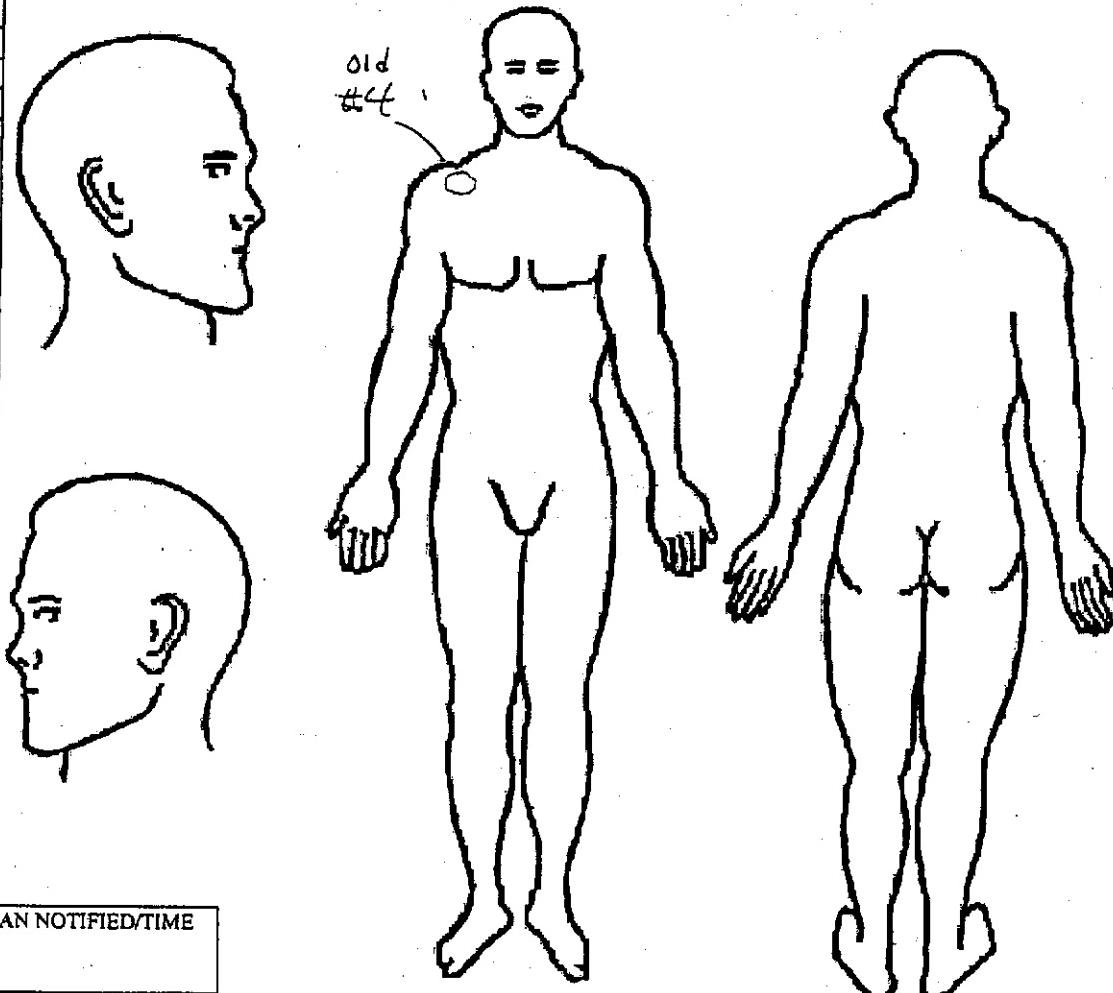
Q 15 min. checks

Staff issued exposure packet? YES / NO

RN NOTIFIED/TIME

PHYSICIAN NOTIFIED/TIME

TIME/DISPOSITION



REPORT COMPLETED BY/TITLE (PRINT AND SIGN)

A. Capinha *A. Capinha* **68071** **SM**

(Medical data is to be included in progress note or emergency care record filed in UHR)



U.S. Department of Justice

Civil Rights Division

"Exhibit"

ANM:TLM:yly:bah
DJ 144-118-1434

Criminal Section - PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

NOV 8 2002

Mr. Antonio Williams
J05660
High Desert State Prison
P.O. Box 3030
Susanville, CA 96127

Dear Mr. Williams:

This is in response to your undated letter, in which you allege that you were physically assaulted by corrections officers in High Desert State Prison on May 14, 2002.

The Federal Bureau of Investigation has been requested to conduct a preliminary investigation into this matter. You can be assured that if the evidence shows that there is a prosecutable violation of federal criminal civil rights statutes, appropriate action will be taken.

Thank you for bringing this matter to our attention.

Sincerely,

Albert N. Moskowitz
Section Chief
Criminal Section
Civil Rights Division

By:

Tamara Miller
Deputy Chief
Criminal Section

cc: Records Chrono Levy T. 10/31/02
S:\ylevy\MyFiles\Correspondence\Citizen Letters\Williams_Antonio
FBI.wpd

FORM E

Proof of Service by Mail

CASE NO. 105-CV-01560-OWW-WWW
[Case Name and Court Number] Williams vs. Dwight Wilson et al.

I declare that:

I am a resident of C.C.T. in the county of TEHACHAPI, California. I am over the age of 18 years. My residence address is: CALIFORNIA CORRECTIONAL INSTITUTION P.O. BOX 1906 1-A-101 TEHACHAPI, CA 93587.

On 8-14-06, I served the attached AFFIDAVIT OF OFFICE ATTACHE on the CLERK, ATTY General in said case by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully paid, in the United States mail at C.C.T. addressed as follows: CLERK OF U.S.D.C. OF EASTERN DISTRICT OF CALIFORNIA U.S. COURT HOUSE Building 1130 "O" St. FRESNO, CA 93727, ATTY GEN BILL LOCHRY P.O. BOX 944255, SACRAMENTO, CALIF 94244.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on 8-14-06 [date], at TEHACHAPI, California.

Antonio Williams
[Type or Print Name]

Antonio Williams
[Signature]

FORM E

Proof of Service by Mail

CASE NO. 105-CV-01560 - ~~01560~~ - ~~01560~~ - ~~01560~~
[Case Name and Court Number] WILLIAMS V DWIGHT KINGSON ET AL

I declare that:

I am a resident of C.C.I. in the county of TEHACHAPI,

California. I am over the age of 18 years. My residence address is: CALIFORNIA CORRECTIONAL
INSTITUTION P.O BOX 1906 T-A-701 TEHACHAPI, CA 93581
EMERGENCY MOTION

On 8-29-06, I served the attached AFFIDAVIT OF SERVICE STATEMENT on the
CLERK / KEVIN J. CALLAHAN in said case by placing a true copy thereof enclosed in a sealed
envelope with postage thereon fully paid, in the United States mail at C.C.I.
addressed as follows: COURT CLERK OF U.S.D.C EASTERN DISTRICT OF
CALIF U.S COURTHOUSE BUILDING 1130 "O" ST. FRESNO, CA 93721,
PARALEGAL SPECIALIST KEVIN J. CALLAHAN
WS DEPT. JUSTICE BLDG SECT 950 PENNSYLVANIA AVE WASHINGTON D.C
20530

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct, and that this declaration was executed on 8-29-06 [date],
at TEHACHAPI, California.

ANTONIO WILLIAMS
[Type or Print Name]

Antonio Williams
[Signature]